

DOMESTIC RELATIONS COMMITTEE
MEETING MINUTES – MARCH 21, 2003

PRESENT:

Hon. Karen Adam
Rene Bartos
Sid Buckman
Kat Cooper
Frank Costanzo
Beverly Frame
Nancy Gray
Terrill Haugen
Rep. Karen Johnson
Jennifer Jordan

Hon. Dale Nielson
David Norton
Steve Phinney
Beth Rosenberg
Janet Scheiderer
Ellen Seaborne
Steve Wolfson
Jeffrey Zimmerman
Brian Yee

NOT PRESENT:

Gordon Gunnell
Ella Maley

Kelly Spence
Debbora Woods-Schmitt

GUESTS:

Brandi Brown
Scott Leska
Jennifer Greenfield
Bill Hart
Donna Irwin
Evelyn Buckner
Therese Martin
Debbie Harsh
Diane Brown
Annalisa Alvrus

AZ Coalition Against Domestic Violence
Parent
Dept. of Economic Security
AZ Coalition Against Domestic Violence
Governor's Office – Div. for Women
Governor's Office – Div. for Women
Office of the Attorney General
Concerned Citizen
Concerned Citizen
Concerned Citizen

STAFF:

Megan Hunter
Isabel Gillett
Javan Mesnard

Marianne Hardy
Jeremy Arp
Barbara Guenther

CALL MEETING TO ORDER

The meeting was called to order at 10:12 a.m. by Rep. Karen Johnson with a quorum present.

APPROVAL OF MINUTES

MOTION: Dave Norton – Approve the minutes of the January 10, 2003 meeting as submitted. Second by Ellen Seaborne. Approved unanimously.

ANNOUNCEMENTS

Rep. Johnson introduced and welcomed Beverly Frame, new Clerk of Superior Court member who replaces Alma Jennings-Haught. Ms. Frame has been the Clerk of Superior Court in Yuma County since 1990 and has worked in that office for thirty-three years.

Rep. Johnson announced that the Senate President and House Speaker have not announced legislative appointments nor has the position for the representative of a statewide domestic violence coalition been announced.

Sid Buckman described a child abuse situation in northern Arizona in which Child Protective Services failed to protect the child. Sid suggested that the group may want to look at this issue in the future.

LEGISLATIVE UPDATE

Jeff Zimmerman discussed the two bills that were produced through this committee: HB 2257, grandparent visitation, and HB 2258, child custody proceeding. Both bills passed the House and have made it through most Senate committees. The Substantive Law workgroup also discussed a revision to the long distance relocation statute, but did not proceed with it as consensus was not reached.

Rep. Johnson invited Rep. Yarbrough, sponsor of HB 2304, to discuss the bill with this committee today, but he was unavailable. Marianne Hardy discussed HB 2259 and 2304. The idea is to define in statute the percentage that the court would apply to the future costs of sale discount normally applied to real property in dissolution cases. Currently, the court has complete discretion on the actual percentage applied. Steve Wolfson expressed concern that HB 2304 did not come before this committee and that the bill sponsors proceeded with the bill although the State Bar formally opposed it. The bill is not a good idea and will not promote settlement, but will actually encourage more litigation. The bill would take away the court's discretion and does not distinguish between various types of property. Flat rules do not allow for a fair and equitable division of property. The bill failed in Senate Judiciary Committee but may resurface in that committee next week.

Ellen Seaborne commented that Coconino County used to have a policy to utilize a 10% flat discount percentage, but it did not work and she agrees with the state bar committee's opposition. Steve said Maricopa has had a discretionary policy since 1997.

If the bill does resurface, it would be inappropriate not to bring the bill before this committee. Rep. Johnson commented that Rep. Yarbrough is a freshman legislator so although there is no rule, he may not have realized it would have been a good idea to bring the bill to this committee initially.

Frank Costanzo discussed HB 2259 which would add additional legislators to the Domestic Relations Committee roster. He commented that legislators have a difficult time attending committee meetings which may affect the ability of this group to reach a quorum. Rep. Johnson mentioned that the committee needs more involvement from legislators so she is considering asking the Senate President and House Speaker to require legislative members to attend meetings at least 50% of the time.

Hon. Karen Adam discussed a grandparent visitation bill that was not offered by its sponsor for review by this committee. Rep. Johnson will try to get the message through to legislators to bring domestic relations legislation through this committee.

DOMESTIC VIOLENCE – EFFECTS ON CHILDREN

Dr. William Fabricius, Arizona State University, shared his research regarding domestic violence and child custody. The study was conducted on college students from divorced families regarding their perceptions about domestic violence in the home between the parents and violence directed toward them. This is the first data-driven, empirical study on the subject. The sample was comprised of the following: 75% Caucasian, 11% Hispanic, 8% African American, and 4% Asian.

The American Psychology Association task force on violence and the family cites that fathers who batter mothers are twice as likely to seek sole physical custody, and 60% of men who abuse women also abuse children. The study undertaken by Dr. Fabricius found that when violent fathers asked for sole custody, the students were receiving physical violence equally from both the mother and father, which makes it more understandable why the students wanted equal living arrangements (shared residential custody). He also found that overall, only 20% of fathers were violent, but whether they were violent or not, the child was likely to want shared residential custody.

DOMESTIC VIOLENCE/CUSTODY

Dr. Rene Bartos expanded on her previous presentation regarding the effects of domestic violence on children. She distributed a list of legislative proposals.

Dave Norton suggested that Rene's proposal to establish a supervised visitation project should be named "SAFE – Supervised Arizona Family Exchange." He also suggested changing the use of domestic violence terminology to domestic violence that causes physical harm to another person.

Members discussed Rene's proposals and commented that judicial officers are currently required to have many hours of training on domestic violence. Others commented that this group should get away from more domestic violence legislation because the effort

would be duplicative to that of other groups. Another member suggested that the group work on a model of bringing the family back together and promoting the family unit.

Donna Irwin, Governor's Office for Women, commented that the Governor's Office submitted a federal grant application for exchange centers in Pinal and Maricopa Counties. They should receive notification this summer.

The committee broke for lunch.

GOALS/2003

Rep. Johnson requested suggestions for issues to study in 2003. The discussion produced several ideas, as follows:

- Judge Pro Tem Legislation
- Children's Divorce Education
- Process of decision-making – Rules of Procedure
- Orders of Protection
- Domestic violence legislative proposals submitted by Rene (some were opposed)
- Substantive Law and Court Procedures workgroups should be combined and a separate workgroup could study custody
- Child Protective Services presentations
- Unbalanced, one-sided litigation when one party is represented and other is not
- List of proposed new legislative proposals to legislators

Current workgroup chairpersons will continue chairing their respective workgroups.

INTEGRATED FAMILY COURT (IFC)

Janet Scheiderer reported on the progress of the Integrated Family Court. Chief Justice Jones signed an administrative order establishing three Integrated Family Court Pilot Programs in the Superior Court in Coconino, Maricopa and Pinal Counties. The programs will be based upon those components of the report, *An Integrated Family Court Plan for Arizona*, as devised by the Domestic Relations Committee, that are determined financially and administratively feasible. Each county's administrative presiding judge of the Integrated Family Court Pilot Program is directed to submit a report on their pilot program to the Arizona Judicial Council one year after full implementation and upon the program's conclusion in December 2005. The Administrative Office of the Courts will conduct an independent evaluation of the programs.

Maricopa County intends to expand their current pilot project into the Durango facility and identify more of the overlapping cases. The presiding judge in Pinal County has gone to the local county board of supervisors to get a fee established to bring additional revenues to support the project, but the proposal was rejected. Coconino County intends to expand and improve their self-service center, add new services and comply with the one judge-one family concept. Janet advised that the projects are moving forward, but with hesitation due to the impact of the state budget crisis on the courts.

Ellen Seaborne reported that the Integrated Family Court workgroup has not met but they are aware of the administrative order and plan to meet in early summer. She reported that the administrative order contained changes such as the timeline for implementation of a statewide integrated family court, but also commented that the administrative order maintains the integrity of the intent of the Integrated Family Court.

CALL TO THE PUBLIC

Scott Leska, parent, suggested that this committee take a stance of legislation to conduct a study of Child Protective Services and to revamp the ATLAS system.

Diane Brown, parent, discussed her child custody case. She commented that the custody evaluator did not document the occurrence of domestic violence in her case and the court subsequently ordered joint custody. Her son has come home from his father's house beaten and bruised, after which Ms. Brown asked the court for an order of protection. The court ordered supervised visitation and appointed a guardian ad litem and family court advisor to the case. Both recommended visitation with the father. Ms. Brown has spent approximately \$136,000 on legal fees and the court continues to allow visitation.

Annalisa Alvrus, parent, commented that she did not like Dr. Fabricius' study, that domestic violence language in Title 25 should be tweaked, significant domestic violence should be defined and make judges enforce the laws already on the books.

Debbie Harsh, parent, discussed her experience in the court system. She was married for 16 years and endured various forms of abuse. She encouraged the committee to continue working in the best interest of children and families.

NEXT MEETING

The next meeting will be held on April 25, 2003, at the Arizona State Courts Building, 1501 W. Washington, Conference Room 119.

ADJOURNMENT

Rep. Johnson adjourned the meeting at 2:13 p.m.